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S E C R E T SECTION 01 OF 02 YEREVAN 000281

SIPDIS

NOFORN

DEPARTMENT FOR EUR/CACEN, EUR/PRA AND NP/PTR (CURRY)

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TAGS: [KNNP](#) [MNUC](#) [PARM](#) [PREL](#) [AM](#) [GG](#)

SUBJECT: ARMENIA: URANIUM SMUGGLER CONVICTED, THEN RELEASED

REF: 04 YEREVAN 2140

Classified By: CDA A.F.Godfrey for reasons 1.4 (b, d)

Summary

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1. (S/NF) On 15 December 2004, Garik Dadayan, an Armenian citizen, was convicted of attempting to smuggle radioactive material across state borders. Samvel Mnatsakanian, the lead prosecutor in the case, said that because of the weakness of evidence and poor cooperation between law enforcement and intelligence, Dadayan was given a sentence of only two and a half years. Mnatsakanian said that without the consistent, strong USG pressure on the system, Dadayan might have been acquitted. Because of time served in a lengthy pre-trial detention, Dadayan was released in early February. Mnatsakanian claimed Dadayan is now in Nagorno-Karabakh. End Summary.

2. (S/NF) As described in reftel, Dadayan was arrested on June 26, 2003 on the border between Georgia and Armenia. He was found to be in possession of small amounts of substances which were later determined (by the USG) to be highly enriched uranium (HEU). We met recently with Samvel Mnatsakanian, the lead prosecutor in the Dadayan case to follow-up.

3. (S/NF) Mnatsakanian lamented the poor cooperation between law enforcement and intelligence services both in Armenia and Georgia in the months immediately following Dadayan's arrest. He claimed that the intelligence services were overconfident that the threat of conviction would coerce Dadayan to confess and to turn over the rest of the network through which he had obtained the HEU. This overconfidence led to sloppy work: the crime scene was not properly documented, the chain of evidence was broken repeatedly and witness statements were incomplete. When it became clear that Dadayan would not provide information on how he obtained the HEU, intelligence services dumped the case on the Prosecutor's office and insisted on a conviction. Mnatsakanian admitted that without heavy pressure from the USG on both the judge and the Prosecutor General's office, Dadayan might not have been convicted at all. He appreciated the USG support in providing an authoritative technical analysis and also in ensuring the presence of some Georgian witnesses.

4. (S/NF) Mnatsakanian said that Dadayan had been found guilty on three counts: smuggling material across state lines (Russia-Georgia), attempting to smuggle material (Georgia-Armenia) and unlawful possession of radioactive material. Mnatsakanian said he had asked the judge for a sentence of not less than three years. The judge, he explained, said he would convict, but would only give a sentence of two and a half years. Mnatsakanian said the judge wanted to avoid an appeal which would likely have resulted in an acquittal. Because Armenian law allowed for early release for good behavior and counts each day served in pre-trial detention as a day and a half of post-conviction jail time, Dadayan would be eligible for release almost immediately after conviction. Because an appeal process would have been lengthy and would have involved additional pre-trial detention, Dadayan did not appeal, said Mnatsakanian. Dadayan was released from prison in early February. Mnatsakanian claimed that Dadayan was now resident in Nagorno-Karabakh.

5. (S/NF) Mnatsakanian reminded us that the court had still not made a final decision regarding the evidence provided to the USG for analysis by the Government of Georgia. Technically, he explained, the GOAM has jurisdiction over this evidence because it was cited in the case against Dadayan. To close out the case, Mnatsakanian said the judge will write a letter to the Embassy asking the USG to dispose of the evidence. No response from the USG would be expected.

Comment

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6. (S/NF) Given the weakness of this case, we were pleased to get a guilty verdict against Dadayan, although we are dismayed that he is already at liberty. We were not

disinterested observers. Armenia's judicial system is weak and open to outside influence and we pushed hard. We appreciate the support received from other USG agencies, especially the authoritative analysis of the HEU, which was essential to the case. The Armenian National Security Service was responsive to our requests for assistance and investigation, but these efforts took place after the initial seizure. While we cannot judge the level of cooperation of Georgia's intel services with the judiciary, we share Mnatsakanian's frustration at the poor coordination at the time of Dadayan's arrest.

GODFREY